

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

North County Communications Corporation,)	DOCKET NO. 02-0147
)	
Complainant,)	
)	
vs.)	
)	
Verizon North, Inc., and Verizon South, Inc.,)	
)	
Respondents.)	
_____)	

NORTH COUNTY COMMUNICATIONS CORPORATION’S EVIDENTIARY
OBJECTIONS TO THE DIRECT TESTIMONY OF DIANNE M. McKERNAN

PG:LN	TESTIMONY	OBJECTION
3:64-68	“Q. Have you ever held yourself out to NCC, the Complainant in this case, as either (1) a person responsible for knowing the technical aspects of the interconnection process, or (2) a subject matter expert?” “A. No, I do not believe so. If NCC ever perceived as much from anything I stated or did, it certainly was not my intent to convey such a meaning.” [McKernan Direct Testimony, pg 3, ln 64-68.]	<u>Non-responsive:</u> The witness’ testimony, after the word “no,” does not respond to the question presented.
4:85-86	“Mr. Lesser also provided what I would describe as a somewhat unclear,	<u>Argumentative:</u> The testimony is obviously intended to

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	<p>non-specific and moving estimate of his needs for toll traffic”</p> <p>[McKernan Direct Testimony, pg 4, ln 85-86.]</p>	<p>make an argument or summation rather than to elicit relevant facts.</p>
9:208-211	<p>“Q. Did Mr. Lesser ask you what was meant by the phrase ‘retail/enterprise facility?’</p> <p>“A. No.</p> <p>“Q. Did Mr. Lesser tell you his understanding of the phrase ‘retail/enterprise facility?’</p> <p>“A. No, he did not.”</p> <p>[McKernan Direct Testimony, pg 9, ln 208-211.]</p>	<p><u>Relevance:</u></p> <p>Whether Mr. Lessor asked or told Ms. McKernan what “retail/enterprise facility” means is irrelevant.</p>
10:212-216	<p>“Q. Did Mr. Lesser indicate to you that the response to his ‘fiber build’ inquiry was somehow problematic in that he thought it meant Verizon Illinois was violating some type of legal requirements in connection with CLEC interconnections?</p> <p>“A. No, he did not. The first I learned that Mr. Lesser found the response problematic was when I became aware of NCC’s Complaint with the ICC.”</p> <p>[McKernan Direct Testimony, pg 10, ln 212-216.]</p>	<p><u>Relevance:</u></p> <p>Whether Mr. Lesser shared with Ms. McKernan his thoughts about the response to his “fiber build” inquiry is irrelevant.</p> <p><u>Non-responsive:</u></p> <p>The witness’ testimony, after the phrase “no, he did not,” does not respond to the question presented.</p>
10:223-227	<p>“Q. To be specific, you forwarded Mr. Lesser as part of this e-mail train Mr. Bartholomew’s e-mail to you, dated December 11, 2001, wherein Mr. Bartholomew specifically states that ‘VZwest does not require a fiber build in order to interconnect.’ Is that correct?</p> <p>“A. Yes, that is correct.”</p> <p>[McKernan Direct Testimony, pg 10, ln 223-227.]</p>	<p><u>Leading:</u></p> <p>The form of the question is improper for direct testimony. The question suggests the answer to be given.</p> <p><u>Hearsay:</u></p> <p>The witness is asked to testify about the contents of an email from Mr. Bartholomew.</p> <p><u>Cumulative:</u></p>

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		This question has already been asked and answered.
10:228-231	<p>“Q. Did Mr. Lesser ever ask you what was meant by Mr. Bartholomew’s statement?</p> <p>“A. No, he did not.</p> <p>“Q. Did Mr. Lesser ask you to ask Mr. Bartholomew what was meant by the statement?</p> <p>“A. No, he did not.”</p> <p>[McKernan Direct Testimony, pg 10, ln 228-231.]</p>	<p><u>Relevance:</u></p> <p>Whether Mr. Lesser asked McKernan about Mr. Bartholomew’s statement is irrelevant.</p>
10:232-235	<p>“Q. Again, to be specific, you forwarded Mr. Lesser as part of the e-mail train Mr. Bartholomew’s e-mail to you, dated December 13, 2001, wherein Mr. Bartholomew uses the phrase “retail facility.” Is that correct?</p> <p>“A. Yes.”</p> <p>[McKernan Direct Testimony, pg 10, ln 232-235.]</p>	<p><u>Cumulative:</u></p> <p>This question has already been asked and answered.</p> <p><u>Leading:</u></p> <p>The form of the question is improper for direct testimony. The question suggests the answer to be given.</p> <p><u>Hearsay:</u></p> <p>The witness is asked to testify about the contents of an email from Mr. Bartholomew.</p>
11:236-240	<p>“Q. Did Mr. Lesser ever ask you what was meant by the phrase ‘retail facility?’</p> <p>“A. No, he did not.</p> <p>“Q. Did Mr. Lesser ask you to ask Mr. Bartholomew what was meant by the phrase ‘retail facility?’</p> <p>“A. No.”</p> <p>[McKernan Direct Testimony, pg 11, ln 236-240.]</p>	<p><u>Relevance:</u></p> <p>Whether Mr. Lessor asked about the phrase “retail facility” is irrelevant.</p>
11:253 - 12:265	<p>“Q. Do you know whether Mr. Bartholomew responded to NCC’s</p>	<p><u>Non-responsive:</u></p> <p>The witness’ testimony, after the word</p>

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	<p>collocation inquiry?</p> <p>“A. Yes. The next day, December 18, 2001, Mr. Bartholomew e-mailed his response directly to Mr. Lesser and copied me on his e-mail. In his e-mail, Mr. Bartholomew provided Mr. Lesser contact information for collocation with Verizon Illinois, including the contact’s name, direct phone number and e-mail address. In addition, even though Mr. Lesser had only asked about collocation, Mr. Bartholomew was forthcoming and voluntarily gave Mr. Lesser the following advice with regard to what would be entailed should NCC wish to proceed with interconnection:</p> <p>“For interconnection, you would first submit a forecast, we would hold a conference call to discuss and revise the forecast if necessary. Once we have an agreed upon forecast, you can submit orders for trunking. It takes approximately 15 days from the receipt of a clean (no errors) order to establish trunking.”</p> <p>[McKernan Direct Testimony, pg 11, ln 253 - pg 12, ln 265.]</p>	<p>“yes,” does not respond to the question presented.</p> <p><u>Argumentative:</u> The testimony is obviously intended to make an argument or summation rather than to elicit relevant facts.</p>
<p>12:285 - 13:287</p>	<p>“Q. Were you involved in the process of preparing NCC’s IA with Verizon Illinois?</p> <p>“A. No. However, it is my understanding that NCC’s IA with Verizon Illinois was contractually effective on February 5, 2002, and approved by the ICC on April 10, 2002.”</p> <p>[McKernan Direct Testimony, pg 12, ln 285 - pg 13, ln 287.]</p>	<p><u>Non-responsive:</u> The witness’ testimony, after the word “no,” does not respond to the question presented.</p> <p><u>Lacks Foundation:</u> The witness has stated no basis for personal knowledge of the facts assumed in her testimony.</p>
<p>13:288- 292</p>	<p>“Q. Following Mr. Lesser’s e-mail of January 13, 2002, wherein Mr. Lesser</p>	<p><u>Non-responsive:</u> The witness’ testimony, after the word</p>

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	<p>stated NCC's intent to opt into the AT&T IA for Illinois, did Mr. Lesser contact you to pursue interconnection in Illinois?</p> <p>"A. No. I decided to take the initiative and contacted him on February 14, 2002, which was about one (1) month later, because I had not heard from him."</p> <p>[McKernan Direct Testimony, pg 13, ln 288-292.]</p>	<p>"no," does not respond to the question presented.</p>
<p>15:362 - 16:374</p>	<p>"Q. Was your request for NCC to provide further forecast information driven, in any respect, by the fact that Mr. Lesser simply submitted the information via e-mail?</p> <p>"A. No. In Mr. Lesser's February 14, 2002, e-mail, wherein Mr. Lesser resubmitted his initial, December 7, 2001, e-mail as NCC's forecast information, (see, Att. DMM-6), Mr. Lesser made an extraneous comment that assumes Verizon Illinois had an objection to the manner in which Mr. Lesser submitted NCC's forecast information. Mr. Lesser's assumption was simply incorrect. My attempts to obtain further forecast information from NCC were not driven by the manner in which Mr. Lesser submitted the information. Rather, my attempts pertained to the substance of the information Mr. Lesser had provided on NCC's behalf up to that point in time. In fact, as I note below, once Mr. Lesser finally submitted the appropriate forecast information for Illinois, Mr. Lesser again did so via e-mail. I voluntarily transcribed NCC's forecast information from Mr. Lesser's e-mail into the Company's database."</p> <p>[McKernan Direct Testimony, pg 15, ln</p>	<p><u>Non-responsive:</u></p> <p>The witness' testimony, after the word "no," does not respond to the question presented.</p> <p><u>Argumentative:</u></p> <p>The testimony is obviously intended to make an argument or summation rather than to elicit relevant facts.</p>

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	362 - pg 16, ln 374.]	
19:474-477	<p>“Q. Did you know why Mr. Lesser sent you his February 25, 2002, e-mail. 474</p> <p>“A. No. However, I later learned that on February 22, 2002, Verizon Illinois had filed a Motion to Dismiss NCC’s Complaint in part on the ground that Leaf River was not a Verizon Illinois exchange.” [McKernan Direct Testimony, pg 19, ln 474-477.]</p>	<p><u>Non-responsive:</u> The witness’ testimony, after the word “no,” does not respond to the question presented.</p> <p><u>Lacks Foundation:</u> The witness has stated no basis for personal knowledge of the facts assumed in her testimony.</p> <p><u>Hearsay:</u> The witness is testifying about what he read from documents and what he heard from others.</p>

DATED: November 10, 2003

NORTH COUNTY COMMUNICATIONS
CORPORATION

By: _____

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CERTIFICATE OF SERVICE

I, Joseph G. Dicks, hereby certify that I served a copy of the **NORTH COUNTY COMMUNICATIONS CORPORATION'S EVIDENTIARY OBJECTIONS TO THE DIRECT TESTIMONY OF DIANNE McKERNAN** regarding Docket No. 02-0147 upon counsel for Verizon North, Inc. and Verizon South, Inc.; Illinois Commerce Commission by Chief Clerk Donna M. Caton; and William Showtis, Administrative Law Judge; by email on November 10, 2003.

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